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U.S. BANKRUPTCY COURT  
EASTERN DISTRICT OF NC

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Chapter 7 Trustee/Pro Se  
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8 UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
RALEIGH DIVISION

9 IN RE: ASSET TRADER,  
10 Debtor.

NO. 16-02794-5-DMW  
CHAPTER 7

11 IN RE: ANTHONY WAYNE MARCH,  
12 Debtor.  
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NO. 16-00522-5-DMW  
CHAPTER 7

OPPOSITION TO MOTION FOR  
APPROVAL OF COMPROMISE

OPPOSITION TO MOTION FOR APPROVAL  
OF COMPROMISE - 1

Michael P. Klein  
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1 I. INTRODUCTION

2 Michael P. Klein, Chapter 7 Trustee for the Bankruptcy Estate of Rolfe Chester Fred  
3 Pope (the "Pope Trustee"), respectfully requests the Court deny the Trustee's Motion for  
4 Approval of Compromise (Dkt. No. 728). Mr. Klein was only recently appointed the Chapter 7  
5 trustee for Mr. Pope's bankruptcy estate, and requires additional time to investigate the claims  
6 amongst the bankruptcy estates of Pope, Asset Trader, and March. But more importantly, Mr.  
7 Angell (the "Asset Trader Trustee") has not obtained relief from stay in the Pope bankruptcy  
8 case to diminish the interest now held by the Pope Trustee. An order approving the  
9 compromise would violate the automatic stay imposed by Pope's bankruptcy filing.

10 II. PERTINENT FACTS/PROCEDURAL HISTORY

11 Rolfe Chester Fred Pope filed for Chapter 7 bankruptcy relief on October 3, 2017 in the  
12 United States Bankruptcy Court for the Western District of Washington.<sup>1</sup> Michael P. Klein  
13 was appointed Chapter 7 trustee for the Pope bankruptcy estate.<sup>2</sup> Mr. Angell, in his capacity as  
14 Chapter 7 trustees for the March bankruptcy estate and Asset Trader bankruptcy estate, filed  
15 his Motion for Approval of Compromise on October 30, 2017. Dkt. No. 728. Mr. Angell did  
16 not seek relief from the United States Bankruptcy Court for the Western District of Washington  
17 prior to filing the Motion for Approval of Compromise, nor has any motion for relief from the  
18 automatic stay been filed in the interceding weeks.<sup>3</sup> The claim against the Asset Trader  
19 bankruptcy estate filed by Pope prior to his bankruptcy filing (and allowed by this Court) is an  
20 asset of the Pope bankruptcy estate.

21 III. AUTHORITY & ARGUMENT

22 "The automatic stay enjoins the enforcement of 'any act to obtain possession of  
23 property of the estate or of property from the estate or to exercise control over property of the

24 <sup>1</sup> Declaration of Michael P. Klein, ¶ 2.

25 <sup>2</sup> Declaration of Michael P. Klein, ¶ 2.

<sup>3</sup> Declaration of Michael P. Klein, ¶ 2.

1 estate.” *In re Carroll*, 903 F.2d 1266, 1270 (9<sup>th</sup> Cir. 1990) (citing 11 U.S.C. § 362(a)(3)).  
 2 Property of the estate includes all interests of the debtor as of the commencement of the  
 3 bankruptcy case. 11 U.S.C. § 541(a). In the Ninth Circuit, “. . . [a]ctions taken in violation of  
 4 the automatic stay are void.” *Burton v. Infinity Capital Mgmt.*, 862 F.3d 740, 747 (9<sup>th</sup> Cir.  
 5 2017) (citing *In re Schwartz*, 954 F.2d 569, 571 (9<sup>th</sup> Cir. 1992)). “This rule applies to judicial  
 6 proceedings.” *Burton*, 862 F.3d at 747 (citing *Gruntz*, 202 F.3d at 1082; *In re Shamblin*, 890  
 7 F.2d 123, 125 (9<sup>th</sup> Cir. 1989)).

8 The Motion for Approval of Compromise seeks an order from the Court that will, at a  
 9 minimum, exercise control over property of the Pope bankruptcy estate. The Pope bankruptcy  
 10 estate has an allowed claim against the Asset Trader bankruptcy estate in the amount of  
 11 \$526,951.16. Dkt. No. 708 at page 11. Under the terms of the compromise proposed by the  
 12 Asset Trader Trustee, holders of allowed unsecured claims, such as the Pope bankruptcy estate,  
 13 will receive an estimated distribution of 11.36% absent the settlement, and a lower distribution  
 14 if the settlement is approved. Dkt. No. 728 (Motion for Approval of Compromise) at page 5;  
 15 Exhibit C. Any order entered on the Asset Trader Trustee’s motion will constitute a violation  
 16 of the automatic stay that was imposed by Pope’s bankruptcy filing. The order as applied to  
 17 Mr. Pope’s claim will be void. Accordingly, the Court should deny the Motion for Approval of  
 18 Compromise until the Asset Trader Trustee obtains relief from stay from the United States  
 19 Bankruptcy Court for the Western District of Washington. *See also In re Palmdale Hills*  
 20 *Prop., LLC*, 654 F.3d 868, 871 (9<sup>th</sup> Cir. 2011) (the automatic stay imposed by Section 362 bars  
 21 actions that would diminish the estate of a debtor; thus, if a second debtor wants to equitably  
 22 subordinate the creditor claims of the first debtor, the second debtor must seek relief from the  
 23 first debtor’s home bankruptcy court).



1 IV. CONCLUSION

2 The Asset Trader Trustee's motion should be denied. He failed to seek relief from stay  
3 from the United States Bankruptcy Court for the Western District of Washington prior to filing  
4 the Motion for Approval of Compromise. Any order entered by this Court would be void as to  
5 the creditor claim in which the Pope bankruptcy estate now has an interest.

6  
7 DATED this 27th day of November, 2017.

8   
9 /s/ Michael P. Klein  
10 Michael P. Klein, Pro Se Chapter 7 Trustee  
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12 Bainbridge Island, WA 98110  
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7 UNITED STATES BANKRUPTCY COURT  
8 FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
RALEIGH DIVISION

9 IN RE: ASSET TRADER,  
10 Debtor.

NO. 16-02794-5-DMW  
CHAPTER 7

11  
12 IN RE: ANTHONY WAYNE MARCH,  
13 Debtor.

NO. 16-00522-5-DMW  
CHAPTER 7

14 DECLARATION OF MICHAEL P. KLEIN  
15 IN SUPPORT OF OPPOSITION TO  
16 MOTION FOR APPROVAL OF  
COMPROMISE

17 The undersigned makes the following statement under penalty of perjury:

- 18 1. I am over 18 years of age, am competent to testify to the statements herein and  
19 make the statements herein based on facts personally known to me.  
20 2. I am the duly appointed trustee in the Chapter 7 bankruptcy case of Rolfe Chester  
21 Fred Pope, pending in the United States Bankruptcy Court for the Western District  
22 of Washington, Case No. 17-14354-MLB.  
23 3. Rolfe Chester Fred Pope filed for Chapter 7 bankruptcy relief on October 3, 2017 in  
24 the United States Bankruptcy Court for the Western District of Washington. Mr.  
25

DECLARATION OF MICHAEL P. KLEIN IN SUPPORT OF  
OPPOSITION TO MOTION FOR APPROVAL OF COMPROMISE -

1

Michael P. Klein  
Chapter 7 Trustee/Pro Se  
330 Madison Ave. S., Suite 110  
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1 Angell did not seek relief from the United States Bankruptcy Court for the Western  
2 District of Washington prior to filing the Motion for Approval of Compromise, nor  
3 has any motion for relief from the automatic stay been filed since Mr. Angell filed  
4 the Motion for Approval of Compromise. The claim against the Asset Trader  
5 bankruptcy estate filed by Pope prior to his bankruptcy filing (and allowed by this  
6 Court) is an asset of the Pope bankruptcy estate.

7  
8 DATED this 27th day of November, 2017.

9   
10 /s/Michael P. Klein  
11 Michael P. Klein, Chapter 7 Trustee  
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DECLARATION OF MICHAEL P. KLEIN IN SUPPORT OF  
OPPOSITION TO MOTION FOR APPROVAL OF COMPROMISE -

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UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
RALEIGH DIVISION

In Re:

ASSET TRADER

Debtor.

No. 16-20794-5-DMW

In Re:

ANTHONY WAYNE MARCH

Debtor.

No. 16-00522-5-DMW

The undersigned hereby certifies that a true copy of the Opposition to Motion for Approval of Compromise, Declaration of Michael P Klein in Support of Opposition to Motion for Approval of Compromise and Proposed Order Denying Motion for Approval of Compromise were emailed to Marjorie K Lynch, Esquire and James B Angell, Chapter 7 Trustee on the 27<sup>th</sup> day of November, 2017.

Dated: November 27, 2017

/s/ Michael P. Klein  
Michael P. Klein

CERTIFICATE OF MAILING

**Michael P. Klein**  
Attorney at Law  
330 Madison Avenue S, Suite 110  
Bainbridge Island, Washington 98110  
(206) 842-3638